

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

v.

JAMES EDWIN THORNTON

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CRIMINAL NO. 6:09-cr-00092-LED-JDL

**REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On February 5, 2015, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant. The government was represented by Richard Moore, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Wayne Dickey.

On March 25, 2010, Defendant James Edwin Thornton was sentenced before U.S. District Judge Leonard Davis after pleading guilty to the offense of Possession with Intent to Distribute at Least 5 Grams but Less than 50 Grams of Methamphetamine, a Class B felony. This offense carried a statutory maximum imprisonment term of 40 years. The United States Sentencing Guideline range, based on a total offense level of 23 and a criminal history category of V, was 84 to 105 months. Defendant was sentenced to 84 months imprisonment and 4 years supervised release, plus special conditions including, in pertinent part, that Defendant shall: 1) report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month; and 2) participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation

officer. On October 21, 2014, Defendant completed the term of imprisonment and began his period of supervised release.

In its petition, the government alleges, in pertinent part, that Defendant violated the terms of supervised release when Defendant: 1) failed to complete a written report for the month of November 2014, and failed to report to the probation office as instructed on November 13, 2014 and December 3, 2014; and 2) failed to report for drug testing on November 1, 2014, November 5, 2014, November 7, 2014, November 14, 2014, November 18, 2014, and November 25, 2014, and failed to report for drug treatment for the month of November 2014. Therefore, should the Court find by a preponderance of the evidence that Defendant violated the terms of his supervised release, Defendant will be guilty of committing a Grade C violation. U.S.S.G. § 7B1.3(a)(2) indicates that upon a finding of a Grade C violation, the Court may: 1) revoke probation or supervised release; or 2) extend the term of probation or supervised release and/or modify the conditions of supervision. Considering Defendant's criminal history category of V, the Guideline imprisonment range for a Grade C violation is 7 to 13 Months. U.S.S.G. § 7B1.4(a).

At the February 5, 2015 hearing, Defendant pled true to the allegations above. The government recommended that Defendant James Edwin Thornton be committed to the Bureau of Prisons at Texarkana for 10 months with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, the Court RECOMMENDS that Defendant James Edwin Thornton be committed to the custody of the Bureau of Prisons at Texarkana for 10 months with no supervised release to follow.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to U.S. District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 9th day of February, 2015.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE